



**STRATHMORE LAW SCHOOL
MASTER OF LAWS (LL.M.)
END OF MODULE EXAMINATION
LLM 8313: International corporate finance law**

Date: **FRIDAY, 25TH MARCH 2022**

Time: **3 Hours**

INSTRUCTIONS

1. This is the final examination in the course International Corporate Finance Law offered to Master of Laws (LLM) degree candidates in February 2022.
2. This examination will comprise 60% of your final grade.
3. This examination has 3 questions. Answer ALL THREE QUESTIONS.
4. Time allocated for this examination is 3 hours. You must stop writing when time is called by the examination administrator.
5. This is a CLOSED BOOK examination. You should not bring into the examination room any material in any format, including class notes, outlines, textbooks, electronic materials. You should not have any electronic gadgets including cellphones and computers during this examination.
6. You are bound by Strathmore University's Student Code of Academic Conduct while sitting this examination. Any violations will be strictly enforced.

QUESTION ONE (20 POINTS)

Matrix is a Kenyan unicorn startup that was incorporated in 2006 by three computer engineers formerly employed at a leading technology company in the country. Matrix provides e-commerce software that is used by retailers of common goods and services. Despite being at the cutting edge of the digital revolution that has swept the country, in the last 3 years, Matrix has had an extremely high turnover of CEOs, 6 changes to be precise. Last year the company reported heavy losses. A letter sent by the management to the company's employees last week stated that the company will have to shut down if it is unable to raise financing to immediately improve its cash flow. This state of financial distress was reported widely in local newspapers.

(a) Noting the high CEO turnover at Matrix, extrapolate the role a company's chief executive and management play in international corporate finance and advise Matrix what measures should be taken to address its management crisis.

(10 points)

(b) The shareholders of Matrix have sought your legal opinion on what they should do to arrest the company's financial distress and prevent its collapse.

(10 points)

QUESTION TWO (20 POINTS)

Lenox is a Chinese technology company. It is listed in the New York Stock Exchange, and this allows it to trade in American securities markets. Last month, New York's Securities Exchange Commission wrote a letter to Lenox stating that the company had not complied with the listing regulations as it had not filed required financial documents with the Commission. Consequently, the Commission wrote, the company would be delisted within 3 months unless it demonstrated effective compliance.

Lenox has two choices — to either comply by filing the required documents; or to not comply and be delisted and consider listing in other foreign securities markets. It has been reported that the Chinese government has banned domestic companies from complying with compliance demands from foreign regulators citing national security reasons. The Chinese government believes that American regulators are politicizing listing of Chinese companies in their markets in order to control and dominate the advancement of global finance and technology.

Lenox has sought your legal advice on which one of the two choices it should follow. Your written legal advice should cite reasons for advocating one choice over the other, and should also inform Lenox which strategies the company should adopt to navigate the opposing demands made by the two governments.

(20 points)

QUESTION THREEE (20 QUESTIONS)

Amboseli Tour Company Limited was incorporated in 1990 in Kenya by three individuals — Samuel Mudosi, a Kenyan, Wilkinson Edward, an American, and Smith Will, an Australian. The three hold an equal stake in the company which has 3 million shares with a nominal value of 100 shillings per share. The three are also directors of the company. The company is well known as a significant player in Kenya's tourism and hoteling sector. It currently employs 600 drivers for its fleet of 400 luxury tour vans. The company also has over 100 contracts with tour companies in the US and Australia. The contracts have enabled it secure a steady stream of business, bringing in over half of the over 300,000 tourists that visit Kenya annually.

When the Covid-19 pandemic started in 2019, and travel restrictions were imposed by governments around the world, the company was forced to take loans to remain afloat. It also received some emergency loans from the government.

Sadly, last year, Wilkinson Edward succumbed to Covid-19 and was buried at his home in a ranch located in Laikipia County. The land on which the ranch is located is registered in the name of the company. It has been one of the scenic sites frequently visited by customers of the company. Following Wilkinson's death disputes have arisen:

(a) Wilkinson was survived by a wife and three daughters. They have asserted that they own the ranch, which they would like to sell in order to pay off Wilkinson's creditors namely, Maisha Bora Hospital, where he received extensive cancer treatment for 6 years, and credit card charges amounting to 100 million shillings.

(10 points)

(b) Three lenders who advanced loans to the company during the pandemic have not been paid for 6 months and have gone to court to enforce repayment of the debt. Advocates for Wilkinson have argued that Wilkinson, a director of the company, was hospitalized when the loans were advanced, and as such, since he did not participate in authorizing the borrowing, the company is not legally bound to pay the debt and the assets of the company should not be attached.

(10 points)

Draft a well-reasoned judicial opinion supported by sound legal arguments and provisions of law disposing of these disputes and clearly indicating the legal issues arising and the legal outcomes that should follow.